

HONORABLE CHRISTOPHER M. ALSTON
CHAPTER 13

Hearing Date: August 2, 2018

Hearing Time: 9:30 a.m.

Hearing Location: Seattle, WA

Response Date: July 26, 2018

UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT
OF WASHINGTON, AT SEATTLE

In re:)
) Bank No. 18-12299-CMA
JASON L. WOEHLER,)
)
) MOTION FOR RELIEF FROM STAY
Debtor.) TO PURSUE LAWSUIT
)
)

COME NOW Heidi & Ernest Anglin ("Anglins"), by and through
their attorney, James A. Sturdevant, and move this Honorable
Court for relief from the automatic stay of 11 U.S.C. § 362(a).
They state as grounds therefor the following:

INTRODUCTION

1. Anglin seeks relief from the stay solely to continue to
pursue their claims against Jason Woehler ("Woehler") in *Heidi &
Ernest Anglin v Merchants Credit Corporation and Jason Woehler*;
Case 2:18-cv-00507-JCC in the United States District for the
Western District of Washington (the "Lawsuit").

FACTS

1. The Lawsuit was filed on April 5, 2018.

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LAWSUIT - 1/5
Case No. 18-12299-CMA
Anglin

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2 A. The case arose when certain creditors assigned unpaid
3 medical debts of the Anglins and their marital community to
4 Merchants Credit Corporation ("Merchants") for collection.
5 Merchants filed a state court lawsuit against them. Merchants,
6 through Woehler in the state court lawsuit, sought and obtained
7 judgments against Anglin.

8 B. Among other claims, the Lawsuit alleges that the
9 defendants' lawsuit and judgments discriminate against the
10 Anglins on the basis of marital status in violation of 15 USC §
11 1691("ECOA") when it sought and obtained judgment against the
12 separate estates of each Anglin for the separate debt of the
13 other. It also alleges that the defendants violated 15 U.S.C. §§
14 1692, *et seq.* ("FDCPA") for the Anglins for the same ECOA reason
15 and attempting to garnish Heidi's paycheck before there was a
16 final judgment in the case. In the same manner, it violated RCW
17 19.16, the Washington Collection Agency Act ("WCAA"), and through
18 it, RCW 19.86, and the Washington Consumer Protection Act
19 ("WCPA") and the WCPA standing alone. The Anglins thus want the
20 stay lifted to allow them to proceed against Jason Woehler
21 ("Woehler") in the claims as alleged in the Lawsuit.

22 2. Woehler has listed the Anglins as creditors in this
23 bankruptcy.

24 3. Mark Rosenberg is the attorney for Woehler in the
25 Lawsuit. The Anglins do not know if he was hired under an
26 insurance policy or privately.

27 4. There is pending in the Lawsuit a motion for dismiss by
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2 the defendants. In any event, the relief sought only extends to
3 the determination of liability and payment would be sought from
4 Woehler's insurance coverage, if any, and to the amount of any
5 dividend to creditors proposed and allowed under duly filed
6 proofs of claim in the instant bankruptcy.

7
8 ISSUE

9 Should this Court for cause under 11 U.S.C. § 362 (d) (1)
10 lift the automatic stay of 11 U.S.C. § 362(a) and allow the
11 Anglins to pursue their claims against Woehler?

12 The Anglins believe this Court should lift the stay.

13
14 LAW

15 The case of *In re Fernstrom Storage & Van Co.*, 938 F.2d 731,
16 (7th Cir. 1991) would appear to grant this court authority for
17 cause under 11 U.S.C. § 362(d) (1) to lift the stay. In it, the
18 moving party sought relief from stay for "cause" under 11 U.S.C.
19 § 362(d) (1). The moving party sought only a judgment for
20 liability against the debtor. It sought the judgment for
21 liability so it could obtain the proceeds of the debtor's
22 insurance policy. The Anglins would seek a judgment against
23 Woehler on liability that would be satisfied only to the extent
24 of any insurance policy or as the basis for a proof of claim in
25 the instant bankruptcy.

26 *Fernstrom*, at 736 carved out two exceptions to relief from
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1 stay, neither of which seem to apply here. The first:

2
3 “(W)here there is such identity between the debtor and the
4 third-party defendant that the debtor may be said to be the
5 real party defendant and that a judgment against the third-
6 party defendant will in effect be a judgment or finding
7 against the debtor. (Citation omitted)”

8 These facts are not present here. A judgment against any
9 insurance policy and a judgment against the instant bankruptcy
10 estate is not a judgment against Woehler. The Anglins seek
11 judgment against any insurance policy of the debtor or against
12 the instant bankruptcy estate.

13 The second:

14 “(The second operates where the pending litigation, though
15 not brought against the debtor, would cause the debtor, the
16 bankruptcy estate, or the reorganization plan “irreparable
17 harm. (Citations omitted)”

18 Here again, these facts do not seem to apply to the instant case.
19 If the result of the Lawsuit is that Woehler is liable to the
20 Anglins for an amount certain, then it would be satisfied either
21 from any insurance policy and/or pro rata as allowed in his
22 Chapter 13 Plan. Because of the deficient filing, it is
23 difficult to know what other claims exist against the debtor’s
24 assets or insurance policy.

25 CONCLUSION

26 As a result, this Court should find cause to allow the
27 Anglins under 11 U.S.C. § 362 (d)(1) relief from the automatic
28 stay of 11 U.S.C. § 362(a) to allow them to continue the Lawsuit

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2 against Woehler, subject to the limitations described above.

3 DATED this 18th day of June 2018.

4 /s/ James Sturdevant
5 James A. Sturdevant WSBA # 8016
6 Attorney for Heidi & Ernst Anglin

7
8 DECLARATION

9 I hereby certify and declare under penalty of perjury that
10 the above and foregoing is true and correct to the best of my
11 knowledge.

12 DATED at Bellingham, WA this 19th day of June 2018.

13 /s / James Sturdevant
14 James A. Sturdevant WSBA #8016
15 Attorney for Heidi and Ernest
16 Anglin.

17
18 PROOF OF SERVICE

19 I hereby certify that on this 19th day of June 2018, I
20 electronically filed the foregoing Motion for Relief from Stay to
21 Pursue FDCPA Claim; Proposed Order Granting Relief from Stay to
22 Heidi & Ernest Anglin; and Notice of Motion and Hearing using the
23 CM/ECF system, which will send notification to all attorneys of
24 record and to the U.S. trustee.

25 DATED this 19th day of June 2018.

26 /s/ James Sturdevant
27 James A. Sturdevant WSBA # 8016
28 Attorney for Heidi & Ernst Anglin

29 MOTION FOR RELIEF FROM STAY TO PURSUE
30 LAWSUIT - 5/5
31 Case No. 18-12299-CMA
32 Anglin

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